

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Roseville  
Telephone Company to Review its New  
Regulatory Framework.

Application 99-03-025  
(Filed March 8, 1999)

**ASSIGNED COMMISSIONER'S RULING DIRECTING THE FILING OF  
TESTIMONY AND SCHEDULING A PREHEARING CONFERENCE**

This ruling initiates the preliminary steps that will be necessary to promptly schedule an evidentiary hearing on Roseville Telephone Company's (Roseville) request to modify an element of the sharing mechanism of its new regulatory framework (NRF) structure. As I stated at the February 26, 2004 Commission Meeting, the target issuance date for the draft decision in this proceeding is August 2004. Consequently, it is imperative that the outer parameters of the dates for the submission of Roseville's evidentiary presentation and how it can best fortify this docket's record be set now.

**Procedural Background**

On May 3, 2002, Roseville petitioned to modify Decision (D.) 01-06-077, the Commission's first triennial review of Roseville's NRF and an assessment of a number of issues raised by an audit<sup>1</sup> of Roseville's affiliate and non-regulated operations. In the pleading, Roseville asks the Commission to modify the sharing mechanism of D.01-06-077 by eliminating the requirement that the company

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<sup>1</sup> The Office of Ratepayer Advocates (ORA) conducted the audit.

share 50% of its earnings between the benchmark and ceiling rates of return. In support of its request, Roseville cited precedent and policy grounds and submitted three declarations, two charts and a slide. ORA opposed the petition arguing that it neither was record-based nor justified by any new or changed facts. In August 2003, the assigned Administrative Law Judge (ALJ), unpersuaded that the case for immediate change in the 50-50 sharing requirement had been made, issued a draft decision denying Roseville's petition and scheduling its next NRF Review. In October 2003, an alternate draft decision granting the petition was issued. At the Commission's February 26, 2004 agenda meeting, both draft decisions were withdrawn from the agenda so that an evidentiary hearing could be quickly convened and a proposed decision issued by August.

### **Enhancing the Record**

Roseville asks the Commission to "consider elimination of the 50-50 sharing band" noting that it should be permitted "to modify its sharing mechanism to conform to its present business and consumer needs." The evidentiary hearing will provide Roseville the opportunity to present evidence in support of its request and for other parties to submit testimony relevant to Roseville's request.

Roseville bases its request on a modification to the NRF sharing mechanism adopted for Verizon, via a settlement, in D.93-09-038. In D.94-06-011, the Commission adopted a different modification to the sharing mechanism for Pacific Bell Telephone Company, which was characterized as a "reverse taper"

approach.<sup>2</sup> In that 1994 decision, the Commission retained 50/50 sharing at the 11.5% level, but, at the 15% ceiling, required shareholders to refund only 30% of earnings (in contrast to the previous approach of refunding 100% of earnings above the ceiling to ratepayers). In the interest of having a fuller record, I direct that Roseville and the parties also address in their testimony whether the Commission should adopt for Roseville a reverse taper approach of the type adopted in D.94-06-011.

### **Prefiled Testimony**

In order to meet the target date for issuance of a proposed decision in August 2004, it will be necessary to expedite this proceeding. Consequently, I direct Roseville to submit its opening testimony in support of its request and regarding the reverse taper approach identified above no later than 30 days from the date of this ruling. This date is subject to change by either me or the ALJ for good cause shown. The date that Roseville's opening testimony will be due will be confirmed at the prehearing conference discussed below.

### **Prehearing Conference**

ALJ Jacqueline A. Reed<sup>3</sup> will convene a prehearing conference on March 16, 2004 at 2 p.m. in the Commission Courtroom at 505 Van Ness Avenue, San Francisco, California. The purpose of the prehearing conference will be to: (1) set the discovery schedule; (2) confirm the date that Roseville will submit its

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<sup>2</sup> "Reverse taper" means that the percentage of earnings to be shared with ratepayers decreases as the company's rate of return increases.

<sup>3</sup> As reflected in the accompanying Notice of Reassignment, the ALJ Division has determined that ALJ Jeffrey P. O'Donnell's schedule prevents him from being able to remain with this case and that ALJ Reed is assigned the matter going forward.

prefiled Opening Testimony and supporting documentation; (3) schedule the dates for the submission of responsive and Reply Testimony as well as the dates of the evidentiary hearing and post-hearing briefing.

Thus, **IT IS RULED** that:

1. Roseville shall serve its Opening Testimony in support of its May 3, 2002 Petition for Modification of D.01-06-077 and regarding the “reverse taper” approach, as discussed in this Ruling, no later than 30 days from the date of this ruling. This date is subject to change by subsequent ruling of the assigned commissioner or administrative law judge.

2. A prehearing conference will be convened on March 16, 2004, at 2 p.m. in the Commission Courtroom at 505 Van Ness Avenue, San Francisco, California.

3. Roseville and all interested parties shall be prepared to discuss at the prehearing conference the schedule going forward.

Dated March 5, 2004, at San Francisco, California.

/s/ LORETTA LYNCH

Loretta Lynch  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner's Ruling Directing the Filing of Testimony and Scheduling a Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated March 5, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.